

Overview of the Federal Procurement Process and Resources

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Summary

In the basic federal procurement process, acquisition personnel, after determining their agency's requirements (that is, the goods and services the agency needs), post a solicitation on the Federal Business Opportunities (FedBizOpps) website. Interested companies prepare their offers in response to the solicitation, and, in accordance with applicable provisions of the *Federal Acquisition Regulation* (FAR), agency personnel evaluate the offers. Another type of procurement opportunity for a company is to serve as a subcontractor for a government contractor. To be eligible to compete for government contracts, a company must obtain a Data Universal Numbering System (DUNS) number and register with the federal government's System for Award Management (SAM). Several agencies, such as the General Services Administration (GSA), provide assistance and services to existing and potential government contractors. Research and development (R&D) procurement opportunities may involve traditional contracting methods, such as solicitations and contracts, as well as nontraditional methods, which include agency-sponsored contests and venture capital funds.

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The federal government's basic procurement or acquisition process involves an agency identifying the goods and services it needs (also known as the agency's "requirements"), determining the most appropriate method for purchasing these items, and carrying out the acquisition. Although this process is simple in theory, any given procurement can be complex, involving a multitude of decisions and actions. A contracting officer may need to determine, for example, whether to use a federal supply schedule (see below), what type of contract to use, whether simplified acquisition procedures may be used, or whether the procurement should be set aside for small businesses.¹ Thus, this report does not attempt to describe every possible type of procurement. Instead, it describes the most common elements of the federal procurement process and resources that may be used in that process.

Overview of Federal Government Procurement

Federal Acquisition Regulation (FAR)

The primary source of federal procurement information and guidance is the *Federal Acquisition Regulation*, which consists of Parts 1-53 of Title 48 of the *Code of Federal Regulations* (C.F.R.).² Available at <http://www.acquisition.gov/far>, the FAR covers, for example, contractor qualifications, types of contracts, small business programs, and federal supply schedule contracting. The FAR also includes, in Part 2, definitions of procurement words and terms, and, in Part 52, solicitation provisions and contract clauses.

Eligibility Requirements for Businesses

With a few exceptions, a firm that wants to compete for federal government contracts must meet at least two requirements: (1) obtain a Data Universal Numbering System (DUNS) number, which is a unique nine-digit identification number for each physical location of a business, available at <http://www.dnb.com/get-a-duns-number.html>; and (2) register with the government's System for Award Management (SAM), at <https://www.sam.gov>. Additional requirements specific to a particular procurement may be found in the applicable solicitation (see below).

Business Size

With regard to federal contracting, small businesses may be able to take advantage of certain programs or preferences, including various set-aside programs, and depending upon eligibility criteria.³ Additionally, the federal government has established small business goals for agencies

¹ Information about these topics may be found in Parts 38 (federal supply schedules), 16 (types of contracts), 13 (simplified acquisition procedures), and 19 (small business programs) of the *Federal Acquisition Regulation* (FAR), which is discussed in the next section.

² Generally, it is common practice to refer to the "FAR" (e.g., "FAR 6.302," or "Subpart 15.3 of the FAR") in conversation and text, yet cite the *Code of Federal Regulations* (e.g., 48 C.F.R. §42.302) when identifying the FAR as the source of material.

³ For additional information, see CRS Report R41038, *Survey of Federal Laws Containing Goals, Set-Asides, Priorities, or Other Preferences Based on Race, Gender, or Ethnicity*, by Jody Feder, Kate M. Manuel, and Julia Taylor; and CRS Report R42981, *Set-Asides for Small Businesses: Legal Requirements and Issues*, by Kate M. Manuel and Erika K. Lunder. Relatedly, see CRS Report R40744, *The "8(a) Program" for Small Businesses Owned and Controlled by the Socially and Economically Disadvantaged: Legal Requirements and Issues*, by Kate M. Manuel.

(e.g., the governmentwide goal for small businesses is 23% of the “total value of all prime contract awards for each fiscal year”⁴).

Determining whether a particular firm qualifies as a small business for federal government programs involves, generally, applying the federal government’s size standards.⁵ A size standard exists for each North American Industry Classification System (NAICS) code.⁶ The Small Business Administration’s (SBA’s) Table of Small Business Size Standards, available at https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf, shows the size standard for each NAICS code,⁷ which is either the firm’s average annual receipts or its average employment.⁸

Summary of the Acquisition Process

Essentially, the federal acquisition process begins when an agency determines its requirements and how to purchase them. If the agency’s contracting officer determines that the appropriate method for procuring the goods or services is a contract, and the contract amount is greater than \$25,000, then the agency posts a solicitation on the Federal Business Opportunities (FedBizOpps) website, available at <https://www.fbo.gov>.⁹ At a minimum, a solicitation identifies what an agency wants to buy, provides instructions to would-be offerors, identifies the source selection method that will be used to evaluate offers, and includes a deadline for the submission of bids or proposals.¹⁰ Agencies also may post solicitations on their own websites and, in exceptional circumstances, may post solicitations on their websites instead of on FedBizOpps.

Following the deadline for companies to submit their offers, agency personnel evaluate offerors’ submissions, using the source selection method and criteria described in the solicitation.¹¹ Unless multiple suppliers or firms are needed, such as for a supply schedule, the agency awards a contract to one firm after determining that the company is responsible.¹²

⁴ 15 U.S.C. §644(g)(a)(A)(i). See 5 U.S.C. §644(g)(a)(A)(ii)-(v) for additional small business goals.

⁵ Except in certain circumstances, a firm’s affiliates may affect the determination of its size. 13 C.F.R. §12.103 (“How does SBA determine affiliation?”) reads, in part: “In determining the concern’s [firm’s] size, SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliated, regardless of whether the affiliate are organized for profit.”

⁶ NAICS codes are available at <http://www.census.gov/eos/www/naics/>.

⁷ The small business size standards may also be found in 13 C.F.R. §121.201.

⁸ Instructions for calculating average annual receipts and average employment may be found in 13 C.F.R. §121.104 and 13 C.F.R. §121.106, respectively.

⁹ Examples of procurement methods that do not involve establishing a new contract include using a government purchase card (that is, a credit card); placing a task order (or a delivery order) against an existing contract; or ordering from a GSA schedule (schedules are described in the next section of the report). The governmentwide commercial purchase card is, in effect, a credit card government employees may use to make certain types of purchases. It is known for being used to make micro-purchases, which are items that do not exceed the micro-purchase threshold. Generally, the threshold is \$3,000, but, under certain circumstances it may be higher or lower than this amount. For additional information, see 48 C.F.R. §2.101 and FAR Subpart 13.2. A delivery order (or task order) contract, which also may be known as an indefinite-delivery contract, is “a contract for supplies [or services] that does not procure or specify a firm quantity of supplies [or services] (other than a minimum or maximum quantity) and provides for the issuance of orders for the delivery of supplies [or the issuance of orders for the performance of tasks] during the period of the contract.” 48 C.F.R. §16.501-1.

¹⁰ An “offer” is a response to a solicitation. A company or individual who submits an offer is known as an “offeror.”

¹¹ The two primary categories of source selection are sealed bidding (FAR Part 14) and negotiated contracting (FAR Part 15).

¹² It is the policy of the federal government to procure goods and services only from contractors that are responsible. 48

The awarding of a contract marks the beginning of the next stage in the acquisition process: contract performance and contract administration. Contract administration, which is the responsibility of agency personnel, helps to assure that the government gets what it paid for in terms of cost, quality, and timeliness and also helps to assure that the government fulfills its obligations vis-a-vis the contractor. The processes, activities, and events that occur during contract administration vary from procurement to procurement, though this stage would include invoice processing and payments to the contractor, and may include, among other functions and activities, a post-award orientation, performance monitoring, and contract modifications.¹³

Resources for Businesses

Governmental Resources

General Services Administration (GSA)

The General Services Administration is perhaps best known, in terms of contracting opportunities and resources, as the agency that maintains numerous supply schedules. A schedule is a list of goods and/or services provided by GSA-selected multiple vendors at varying prices. (Hence, these schedules are known as multiple award schedules (MAS).) Information about schedules, including guidance for how to get on a schedule, and a link to resources, training, and tools (including GSA's Vendor Toolbox), are available at <http://www.gsa.gov/portal/category/100635>.¹⁴ The process for getting on a schedule is similar to that for obtaining a government contract: GSA issues a solicitation for particular goods or services, companies submit offers in response, and then GSA evaluates the offers and awards contracts to multiple vendors for the same goods or services. Schedule solicitations are posted on FedBizOpps, and GSA also posts them on its website. The GSA solicitation page may be accessed by going to <http://www.gsa.gov/portal/content/207509>.

Minority Business Development Agency (MBDA)

The Minority Business Development Agency, which is part of the Department of Commerce and whose website is available at <http://www.mbda.gov>, was "created specifically to foster the establishment and growth of minority-owned businesses in America."¹⁵ The agency's network of business development centers provides a variety of management and technical assistance services, and its Phoenix/Opportunity Matching System, a free online system, is designed to match entrepreneurs with federal government and private sector contracting opportunities.

C.F.R. §9.103(a). The general standards used to determine responsibility may be found in 48 C.F.R. §9.104-1.

¹³ For additional, detailed information, see Part 42 of the FAR, "Contract Administration and Audit Services."

¹⁴ GSA offers several resources that target companies interested in selling their products or services on one or more schedules. The resources are available at <http://www.gsa.gov/portal/category/100635>. Another resource for businesses is GSA's forecast of contracting opportunities, which is available at <http://www.gsa.gov/portal/content/101163>. To find GSA's training opportunities for vendors, visit <http://www.gsa.gov/portal/content/203017>.

¹⁵ U.S. Department of Commerce, Minority Business Development Agency, "Who Is MBDA?" available at <http://www.mbda.gov/main/who-mbda/who-mbda>.

Procurement Technical Assistance Program (PTAP)

Although the Procurement Technical Assistance Program is administered by the Defense Logistics Agency (DLA), it is available to assist companies that market products and services to all federal agencies, and state and local governments.¹⁶ Services are provided through 98 Procurement Technical Assistance Centers (PTACs), which have over 300 local offices. To find PTACs, visit <http://www.aptac-us.org/> and use the “Find a PTAC” function. The centers provide assistance through workshops, seminars, and individual counseling sessions.¹⁷

Small Business Administration (SBA)

The Small Business Administration offers a variety of services and assistance to current and would-be government contractors. Its website, available at <http://www.sba.gov>, includes information on, among other topics, small business size standards, contract opportunities, subcontracting, and regulations. SBA also offers, through its online learning center, numerous courses and videos related to government contracting, and links to its district offices, which provide counseling, mentoring, and training. Information about all of these offerings may be found at <https://www.sba.gov/tools/sba-learning-center>.

Non-Governmental Resources

Other resources that firms may find useful in identifying procurement opportunities, navigating the government’s procurement process, and marketing their goods or services include professional, trade, and industry organizations, publications, and events; local chambers of commerce; and consultants. For example, the book *Elements of Government Contracting*, by Richard D. Lieberman and Karen R. O’Brien, provides information about the federal procurement process. Magazines such as *Government Executive* and *Homeland Defense Journal* include articles with information about government procurements and industry workshops or conferences. Industry and trade organizations, such as the Professional Services Council, may be another source of useful information.¹⁸

Selected Topics

Research and Development Procurement

Part 35 of the FAR provides guidance on research and development (R&D) contracting. Interested companies, organizations, and other entities may use FedBizOpps to identify R&D opportunities, which may be posted as solicitations or broad agency announcements (BAA).¹⁹

¹⁶ Defense Logistics Agency, “The Procurement Technical Assistance Program (PTAP)” available at <http://www.dla.mil/SmallBusiness/Pages/ptap.aspx>.

¹⁷ Association of Procurement Technical Assistance Centers, “About the PTAP and APTAC,” at <http://www.aptac-us.org/about-us/>.

¹⁸ The mention of these particular publications and this group is not intended to be, and should not be construed as, an endorsement.

¹⁹ A broad agency announcement is used “for the acquisition of basic and applied research and that part of the development not related to the development of a specific system or hardware procurement. BAA’s may be used by agencies to fulfill their requirements for scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding rather than focusing on a specific system or hardware solution.” 48 C.F.R. §35.016(a).

The federal government also uses several nontraditional procurement methods to acquire the technologies and products it needs. Recognizing that not all new and innovative ideas may be captured by established procurement programs and procedures, the federal government provides for the submission of unsolicited proposals. That is, a firm may submit a proposal for which there is no solicitation. Guidance and requirements for the preparation and submission of unsolicited proposals, including the criteria for a valid unsolicited proposal, may be found at Subpart 15.6 of the FAR. Some agencies may also provide information on their websites about unsolicited proposals, which the Department of Homeland Security (DHS) does at <http://www.dhs.gov/unsolicited-proposals>.

As the central R&D organization for the Department of Defense, the Defense Advanced Research Projects Agency (DARPA) “was established ... to prevent strategic surprise from negatively impacting U.S. national security and create strategic surprise for U.S. adversaries by maintaining the technological superiority of the U.S. military.”²⁰ The DARPA website, available at <http://www.darpa.mil/default.aspx>, includes links to solicitations and BAAs, and a webpage dedicated to opportunities for small businesses, available at http://www.darpa.mil/Opportunities/SBIR_STTR/. The Department of Homeland Security (DHS) and the Office of the Director of National Intelligence (ODNI) are two other agencies that have similar agencies. For information about the Homeland Security Advanced Research Projects Agency (HSARPA), see <http://www.dhs.gov/science-and-technology/hsarpa>; for the Intelligence Advanced Research Projects Agency (IARPA), see <http://www.iarpa.gov/>.

Other nontraditional opportunities for firms, research institutions, and organizations are government-sponsored challenges and venture capital funds established by agencies for the purpose of helping to fund technologies they could use. GSA maintains a website, Challenge.gov, where federal agencies may post challenge and prize competitions. Nearly 400 challenges have been conducted by 69 federal agencies since 2010.²¹ Two agencies that have established venture capital funds are the Central Intelligence Agency (CIA) and the Department of the Army. Information about the nonprofit corporation that was established to manage the CIA’s venture capital fund—In-Q-Tel—is available at <http://www.iqt.org/>. Information about OnPoint Technologies, the Army’s venture capital fund, is available at <http://onpoint.us/>.

Subcontracting Opportunities

Another way to become involved in federal government contracting, albeit indirectly, is to serve as a subcontractor for a company (known as the “prime contractor”) that has been awarded a government contract. Agencies may provide information on their websites about firms to which they have awarded contracts. For example, GSA maintains a subcontracting directory, available at <http://www.gsa.gov/portal/service/SubContractDir/category/102831/hostUri/portal>, and DHS provides a list of prime contractors at <http://www.dhs.gov/prime-contractors>. Other potentially useful sources of information include trade and business publications, FedBizOpps, company websites, and the Federal Procurement Data System (FPDS).²² Information gleaned from these sources might indicate which companies have received, or expect to receive, government contracts. The SBA provides information regarding subcontracting opportunities at <https://www.sba.gov/subcontracting-directory>.

²⁰ Defense Advanced Research Projects Agency, “Our Work,” at http://www.darpa.mil/our_work/.

²¹ U.S. General Services Administration, “Quick Facts: Challenges in Government,” at <http://www.challenge.gov/about/>.

²² The Federal Procurement Data System, which is available at <https://www.fpds.gov>, includes information about government contract actions over \$3,000. 48 C.F.R. §4.602.

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